

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Judah Stephen McNeilly,

Civil No. 14-303 (DWF/FLN)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Steve Hammer, Warden,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated February 10, 2014. (Doc. No. 5.) No objections have been filed to that Report and Recommendation in the time period permitted. Nor has Petitioner filed an amended habeas corpus petition. (*See id.* at 7.) The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Franklin L. Noel's Report and Recommendation (Doc. No. [5]) is **ADOPTED**.
2. This action is summarily **DISMISSED WITHOUT PREJUDICE**.

3. Petitioner's application to proceed *in forma pauperis* (Doc. No. [2]) is

DENIED AS MOOT.

4. Petitioner is **NOT** granted a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 28, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge